

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT
(PCT Rule 71.1)

To:

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Date of mailing
(day/month/year)

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Applicant's or agent's file reference
RH/P/24280.WO

IMPORTANT NOTIFICATION

International application No.
PCT/GB 03/03417

International filing date (day/month/year)
05.08.2003

Priority date (day/month/year)
08.11.2002

Applicant
YAFFE, Adam Richard et al.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international
preliminary examining authority:



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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference RHP/24280.WO		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB 03/03417	International filing date (day/month/year) 05.08.2003	Priority date (day/month/year) 08.11.2002	
International Patent Classification (IPC) or both national classification and IPC B65D17/28			
Applicant YAFFE, Adam Richard et al.			
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of 2 sheets.</p>			
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the International application</p> <p>VIII <input type="checkbox"/> Certain observations on the International application</p>			
Date of submission of the demand 08.06.2004		Date of completion of this report 09.02.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4485		Authorized Officer Rodriguez Gombau, F Telephone No. +49 89 2399-6046 	

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**International application No. **PCT/GB 03/03417****I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-6 as originally filed

Claims, Numbers

1-7 filed with telefax on 04.01.2005

Drawings, Sheets

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**International application No. **PCT/GB 03/03417**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-4,6
Inventive step (IS)	Yes: Claims	
	No: Claims	1-4,6
Industrial applicability (IA)	Yes: Claims	1-7
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB 03/03417

Re Item V

1. Reference is made to the following documents:

D1: WO 99/65780 A (MARTIN) 23 December 1999 (1999-12-23)

D2: WO 00/01587 A (B.F. ELETROMECCANICA) 13 January 2000 (2000-01-13)

2. Document D1, which is considered to represent the most relevant state of the art, discloses (the references in parentheses applying to this document) :

"A container (cf. fig. 4 element 2) having an opening mechanism for opening at least a part of the container to allow access to the contents thereof, said opening mechanism comprising an opening member (cf. fig. 4 element 1) moveable by the user into a position where it is urged against at least a part (cf. fig. 4 element 6) of the container, said urging causing said part (cf. fig. 4 element 6) to be separated from remaining container material to form an aperture through which the contents of the container can be accessed (cf. page 9 lines 14-19) wherein said opening member is further moveable after the container has been opened, into a position where it engages with a shaped member (cf. fig. 14 element 5) projecting from a surface of the top of the container which member acts to urge (cf. page 9 lines 24-34 and figures 4 and 10) at least part of the opening member (cf. figures 4 and 10 elements 1 and 18) into sealing contact with the aperture."

The subject-matter of claim 1 is therefore not novel (Article 33(2) PCT).

Furthermore, document D2 also discloses a container as defined in claim 1.

- 2.1 Dependent claims 2-4 and 6 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty, the reasons being as follows:

i) The additional features of claim 2 are already disclosed by documents D1 (see figs. 4, 8 and page 10 lines 10-17) and D2 (see fig. 1 and page 3 lines 7-11).

ii) The additional features of claim 3 are already disclosed by documents D1 (see fig. 4 element 17) and D2 (see fig. 1 element 6).

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EXAMINATION REPORT - SEPARATE SHEET


iii) The additional features of claim 4 are already disclosed by documents D1 (see page 9 lines 17-19) and D2 (see page 2 lines 23-25).

iv) The additional features of claim 6 are already disclosed by document D1 (see fig. 4 elements 16 and 17).

3. The combination of the features of dependent claims 5 and 7 is neither known from, nor rendered obvious by, the available prior art.

Further observations

4. Independent claim 1 is not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(I) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
5. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 and D2 is not mentioned in the description, nor are these documents identified therein.
6. The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

 Replaced by Art. 34

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CLAIMS

1. A container having an opening mechanism for opening at least a part of the container to allow access to the contents thereof, said opening mechanism comprising an opening member moveable by the user into a position where it is urged against at least a part of the container, said urging causing said part to be separated from remaining container material to form an aperture through which the contents of the container can be accessed wherein said opening member is further moveable after the container has been opened, into a position where it engages with securing means which acts to urge at least a part of the member into sealing contact with the aperture.
2. A container according to Claim 1, wherein the opening mechanism comprises a ring pull mechanism.
3. A container according to Claim 1 or Claim 2, wherein the opening mechanism comprises a part adapted for a finger grip for gripping by a user during operation.
4. A container according to any one of Claims 1 to 3, wherein said at least a part of the container which is separated, in use, is an area defined by a line of weakness in the container material.
5. A container according to any one of Claims 1 to 4, wherein said securing means comprise a shaped member which projects from a surface of the top of the container.

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6. A container according to Claim 5, wherein said shaped member is formed with at least one ramp surface up which a part of the opening member can be moved when moving into a closed position.
7. A container according to any one of Claims 1 to 6, wherein said
5 opening member has at least a part thereof shaped so as to define an elongate tongue which facilitates gripping of the member by a user.
8. A container according to Claim 7, wherein the elongate tongue, when lifted by a user, exerts a lever action about a point between
10 its ends, which acts to urge a part of the opening member into sealing engagement with the dispense aperture.